

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BONITA ABRAM,	)	
	)	
Plaintiff,	)	
	)	Cause No.: 4:18-cv-218
vs.	)	
	)	
MIDWEST LIBRARY SERVICE, INC.,	)	State Court No: 17JE-CC00684
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

COMES NOW defendant Midwest Library Service, Inc. (hereinafter "MLS"), by and through its attorneys, Armstrong Teasdale LLP, and gives notice that the case of *Bonita Abram v. Midwest Library Service, Inc.*, pending in the Circuit Court of Jefferson County, Missouri, Case No. 17JE-CC00684, has been removed to the United States District Court for the Eastern District of Missouri. As grounds for removal, defendant Midwest Library Service, Inc. states:

1. A civil action was commenced and is now pending in the Circuit Court of Jefferson County, Missouri, wherein Bonita Abram is plaintiff and MLS is defendant; said action being designated Case No. 17JE-CC00684.
2. Said Case No. 17JE-CC00684 was commenced on or about September 11, 2017. Plaintiff initially erroneously named the ERISA plan claims administrator, Meritain Health, Inc., as the sole defendant. On December 21, 2017, Plaintiff filed her "Plaintiff's First Amended Motion To Adjudicate Health Care Lien", which omitted Meritain Health, Inc. and first named MLS as the sole defendant. A copy of "Plaintiff's First Amended Motion To Adjudicate Health Care Lien" (hereinafter "the Petition") was served upon MLS on January 10, 2018 (Exhibit A, p.

26); this Notice of Removal is filed within thirty (30) days after receipt by MLS of a copy of the Petition and is timely filed under 28 U.S.C. §1446(b).

ERISA Jurisdiction

3. Said action No. 17JE-CC00684 is a civil action as to which this Court has original jurisdiction under Title 28, United States Code, 1331 which provides that: "The District Courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States"; this Court further has jurisdiction of this action under Title 29, United States Code 1001 et seq., and in particular 29 U.S.C. §1132; plaintiff brings this action as the alleged beneficiary of a health care benefits "plan" as said term is defined in the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§1001 et seq.; to order the payment of benefits under the plan and/or to enforce her rights under the terms of the plan, or to clarify her rights to future benefits under the terms of the plan; pursuant to the provisions of 29 U.S.C. §1132 this Court has jurisdiction over a civil action brought by a beneficiary "to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan;" "for appropriate relief under section 1109;" and "for appropriate equitable relief" for any violation of ERISA; plaintiff's claims in this action relate to an employee benefit plan as defined in said "ERISA"; in particular, this Court has jurisdiction in this action pursuant to provisions of 29 United States Code 1132(a) and (e)(1) which provide in part "Except for actions under Subsection (a)(1)(B) of this section, the District Courts of the United States shall have exclusive jurisdiction of civil actions under this Subchapter brought by the secretary or by a participant, beneficiary, or fiduciary. State courts of competent jurisdiction and District Courts of the United States shall have concurrent

jurisdiction of actions under Subsection (a)(1)(B) of this Section.”

4. Pursuant to Paragraph (f) of Title 29 U.S. Code 1132, a District Court of the United States has jurisdiction of this case without respect to the amount in controversy or the citizenship of the parties to this action.

5. Said action No. 17JE-CC00684 is removable to the United States District Court pursuant to Title 28, U.S. Code §1441(c) et seq. in that it is a civil action brought in a state court and this Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1331 (Federal Question), because plaintiff’s claims arise under a law of the United States, namely 29 U.S.C. § 1001, et seq. as more particularly alleged in paragraphs 3 and 4.

6. Said action No. 17JE-CC00684 is not an action described in Title 28 U.S. Code 1445.

7. Promptly after the filing of this Notice of Removal MLS will give written notice thereof to plaintiff and will file its Notice to State Court, with a copy of this Notice of Removal attached, with the Clerk of the Circuit Court of Jefferson County, Missouri.


8. A copy of the state court file, including the petition and summons served on MLS, is attached as Exhibit A.

WHEREFORE, Defendant Midwest Library Service, Inc. hereby gives notice that said Cause No. 17JE-CC00684 is hereby removed from the Circuit Court of Jefferson County, Missouri and moves that this Court accept and take jurisdiction of this action for trial and determination.

This Notice is signed by counsel for defendant pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Respectfully submitted,

ARMSTRONG TEASDALE LLP

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